

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 967/44780	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____		Application Number 10/578,678	Filed December 8, 2006
		First Named Inventor Ulrich MEIER	
		Art Unit 3679	Examiner HEWITT, James M.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

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applicant/inventor.

/ Christine H. McCarthy /

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

Signature

Christine H. McCarthy

Typed or printed name

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attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

August 29, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below.

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*Total of _____ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant(s)	Ulrich MEIER <i>et al.</i>	Confirmation:	3710
Serial No.	10/578,678	Art Unit	3679
Filed	December 8, 2006	Examiner	HEWITT, James M.
For:	RAPID COUPLING		

ATTACHMENT SHEETS FOR PRE-APPEAL BRIEF CONFERENCE REQUEST

MAIL STOP AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In further response to the final Office Action dated May 14, 2008, and the Advisory Action dated August 26, 2008, Appellants hereby request that a panel of examiners formally review the legal and factual basis of the rejection in the above-identified application prior to the filing of an appeal brief.

Based on the comments provided in the Advisory Action, the sole remaining rejection is a rejection of claims 8-11 under 35 U.S.C. 103 for alleged obviousness of the claimed invention based on Klein *et al.* (U.S. 2,848,255; hereafter "Klein"). Thus, claims 12 and 13 are allowed and their patentability is not addressed herein.

Appellants assert that the prior art rejection must be overturned because the Examiner has failed to establish a prima facie case of obviousness because Klein fails to teach or suggest all the features recited in combination in rejected claims 8-11. For example, Klein fails to teach or suggest the claimed rapid coupling of independent claim 8, wherein the position of the locking element and the engagement section and the strength of the compression spring are such that in an uncoupled state of the coupling, the compression spring pushes the nipple out of the sleeve to such an extent that the engagement section is outside the sleeve. Klein further fails to teach or suggest various features recited in the dependent claims as explained herein.

As explained in the record and discussed with the Examiner during the personal interview conducted July 9, 2008, Appellants understand that the Examiner has interpreted the potential ambiguities of Klein in a broad manner as indicated under KSR International. Therefore, Appellants understand the Examiner's position to be based on an assertion that Klein's spring 21 could have such strength so as to push the juncture 41 of the head 3 out of the portion considered by the Examiner to be the sleeve (body 9 and bushing 35).

However, in Klein, the purpose of spring 21 is to keep the seat 15 on the head 3. In the embodiment of FIG. 5, the spring 21 is even removed and the seat 15 is increased in length. As indicated at col. 2, beginning at line 42, the dimension of the spring 21, the bushing 35, the collar 7, ring 33 and the juncture 41 are such that the spring 21 is not under compression until the head 3 is substantially inserted within the recessed 39. Thus, the spring 21 is clearly designed merely to maintain a seal not to push the head 3 out of the body. That seal is to be maintained between the seat 15 and the flat end of the head 3. "[T]he position shown in Fig. 4, wherein the cylindrical seat 15 has been forced rearward to a point where the spring 21 is sufficiently compressed to exert a strong bias on the seat, holding it in lubricant tight engagement with the flat end of the head of the fitting" (col. 2, lines 64-69).

Therefore, one of ordinary skill in the art could not surmise that the small amount of compression shown in FIG. 3 is sufficient to move the juncture 41 exterior through the body 9. In fact, the non-locking connection shown in FIG. 3 of Klein is the problem that the present application is addressing. This is not a locked position as shown in FIG. 4.

As a side note, Appellants note that Klein is a prior art reference from the mid-1950's yet no other reference has been identified that addresses the deficiencies of Klein in not effectively indicating when a failed locking state has occurred.

Although, KSR International could be reasonably construed to stand for the proposition that some variations in design may be so obvious as to be mere ordinary innovation and unpatentable, KSR International does not dictate or permit that the design of a prior art apparatus may be altered without consideration of physical impossibilities so as to provide a basis for an obviousness rejection. Accordingly, based on a full and thorough understanding of the teachings of Klein, mere material selection and selection of a forceful spring 21 could not provide a compression spring that pushes a nipple out of a sleeve to such an extent that an engagement section is outside the sleeve in Klein. Therefore, independent claim 8 and its dependent claim are patentable over Klein.

Appellants further submit that Further, Fig. 1 of Klein shows the compression spring 21 in a first, completely released (de-energized) state, and Fig. 4 shows the spring 21 in a second state in which the coupling is engaged and the spring is energized so as to press the head 3 to the right so as to wedge the ring 33 between the head and the periphery 17 of the bushing 35.

However, in the de-energized state of Fig. 1, the axial length of the spring 21 appears to be approximately 150% of its length in the energized state illustrated in Fig. 4. Thus, if the nipple 1 is moved from the position shown in Fig. 4 to the right by the length difference experienced by the spring 21 as a result of the spring being in a de-energized state, the juncture 41 (which has been asserted by the Examiner as corresponding to the claimed engagement section), will remain inside the sleeve body 9 or, at best, be coplanar with outer face of the lip 31. As a result, even if the spring were in a de-energized state, there would be no visible indicator on the exterior of the sleeve regarding the locking state of the coupling.

Even presuming that Klein's figures may not be relied upon for exact dimensions, Klein's drawings must be considered so as to understand the operation and limitation of the disclosed apparatus. The teachings of Klein clearly indicate that the compression spring cannot "push the nipple out of the sleeve to such an extent that the engagement section is outside the sleeve" irrespective of the spring's strength. Accordingly, Klein's configuration cannot provide a visible indicator of the locking state of the coupling. Therefore, independent claim 8 and its dependent claim are patentable over Klein.

Additionally, Appellants submit that Klein fails to teach or suggest that the claimed engagement section (which has been asserted to be met by juncture 41) is formed as a groove configured as recited in dependent claim 9 (i.e., that the diameter of the center region of the sleeve recess corresponds to the diameter of the groove plus twice the radial thickness of the locking element). Accordingly, the rejection of dependent claim 9 must be withdrawn.

Further, Appellants note that the final rejection has failed to identify what portion of Klein teaches or suggests the claimed resilient retaining ring having an inner diameter which, in a relieved state of the retaining ring, is smaller than the outer diameter of the nipple as recited in dependent claim 11. Accordingly, the rejection of dependent claim 11 must be withdrawn.

Therefore, it is respectfully requested that the panel return a decision concurring with Appellants' position and eliminating the need to file an appeal brief because there are clear legal and/or factual deficiencies in the appealed rejections. Specifically, the cited prior art

fails to teach or suggest all of the features recited in the rejected claims. Therefore, a prima facie case of obviousness has not been established.

In view of the above, it is submitted that all of the pending claims are in condition for allowance and such action is respectfully requested. It is requested that, if necessary to effect a timely response, this paper be considered a Petition for an Extension of Time sufficient to effect a timely response with the fee for such extensions and shortages in other fees, being charged, or any overpayment in fees being credited, to the Account of Barnes & Thornburg LLP, Deposit Account No. **02-1010** (967-44780).

Respectfully submitted,
BARNES & THORNBURG LLP

/ Christine H. McCarthy /

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